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7 UNITED STATES DISTRICT COURT
8 DISTRICT OF NEVADA

9 PROGRESSIVE DIRECT INSURANCE)
10 COMPANY,)
11 Plaintiff,)
12 vs.)
13)
14 MICHAEL LAYTHORPE, an Individual;)
15 DOES I through X; and ROE)
16 CORPORATIONS I through X, inclusive,)
17 Defendant.)
18)
19 MICHAEL LAYTHORPE,)
20 Counter-Claimant,)
21 vs.)
22)
23 PROGRESSIVE DIRECT INSURANCE)
24 COMPANY, DOES I through X; and ROE)
25 CORPORATIONS I through X, inclusive,)
26 Counter-Defendant.)
27)
28)

CASE NO: 2:22-cv-00822-RFB-EJY

**STIPULATION AND ~~[PROPOSED]~~
ORDER TO EXTEND DISCOVERY
DEADLINES**

(SECOND REQUEST)

Defendant/Counter-Claimant, Michael Laythorpe, and Plaintiff/Counter-Defendant, Progressive Direct Insurance Company, by and through their respective counsel of record, do hereby stipulate to extend the remaining deadlines in the current scheduling order and discovery plan in place in this matter for a period of ninety (90) days for the reasons explained herein.

...

...

1 Pursuant to Local Rule IA 6-1(a), the parties hereby aver that this is the second such
2 discovery extension requested in this matter. Discovery is scheduled to close July 3, 2023, and this
3 Stipulation and [Proposed] Order is thus timely pursuant to Local Rule 26-3.

4 **DISCOVERY COMPLETED TO DATE PURSUANT**
5 **TO LR 26-3(a) -[CHRONOLOGICAL]**

6 1. The parties conducted the FRCP 26(f) Conference on October 10, 2022;
7 2. Defendant/Counter-Claimant served its Initial List of Witnesses and Documents on
8 November 22, 2022;
9 3. Plaintiff/Counter-Defendant served by mail its Initial List of Witnesses and
10 Documents on November 1, 2022. Defendant/Counter-Claimant did not receive the
11 document and notified Plaintiff/Counter-Defendant by email on December 19, 2022.
12 The document was re-served via email on December 20, 2022.
13 4. Plaintiff/Counter-Defendant served its Initial Expert Disclosure Statement on
14 February 2, 2023;
15 5. Defendant/Counter-Claimant served his Initial Expert Disclosure Statement on
16 February 2, 2023;
17 6. Defendant/Counter-Claimant served his First Supplemental List of Witnesses and
18 Documents on February 7, 2023;
19 7. Deposition of Shabnam Salmani, Progressive adjuster, was taken on February 21,
20 2023;
21 8. Deposition of Jennifer Pearson, Progressive adjuster, was taken on February 22,
22 2023;
23 9. Defendant/Counter-Claimant served his initial set of Interrogatories, Requests for
24 Admissions, and Requests for Production of Documents on March 3, 2023;
25 10. Plaintiff/Counter-Defendant served its initial set of Interrogatories and Requests for
26 Production of Documents on March 3, 2023;
27 11. Defendant/Counter-Claimant served his Second Supplemental List of Witnesses and
28 Documents on March 3, 2023;

12. Deposition of Defendant/Counter-Claimant, Michael Laythorpe, was taken on
2 March 6, 2023;
13. Defendant/Counter-Claimant served his Designation of Rebuttal Expert Witnesses
4 on March 6, 2023;
14. Plaintiff/ Counter-Defendant served its Designation of Rebuttal Expert Witnesses
6 on March 6, 2023;
15. Deposition of Plaintiff/Counter-Defendant's Expert David H. Paige was taken on
8 March 21, 2023;
16. Deposition of Defendant/Counter-Claimant's Expert Hugh Black was taken on
10 March 22, 2023;
17. Defendant/Counter-Claimant served his Third Supplemental List of Witnesses and
12 Documents on April 12, 2023;
18. Plaintiff/ Counter-Defendant served its discovery responses on April 17, 2023;
19. Defendant/Counter-Claimant served his discovery responses on April 17, 2023;
20. Defendant/Counter-Claimant served his Fourth Supplemental List of Witnesses and
16 Documents on May 15, 2023;

MOTION PRACTICE COMPLETED TO DATE

18. 1. Plaintiff/Counter-Defendant filed a Motion for Summary Judgment on January 5, 2023;
20. 2. Defendant/Counter-Claimant filed his Response to Motion for Summary Judgment on January 26, 2023 and his Counter-Motion for Summary Judgment on January 27, 2023;
23. 3. Plaintiff/Counter-Defendant filed it's Reply in support of Motion for Summary Judgment on February 6, 2023 and it's Response to Counter-Motion for Summary Judgment on February 13, 2023;
26. 4. Defendant/Counter-Claimant filed his Reply in support of Counter-Motion for Summary Judgment on February 27, 2023;

28. . .

DISCOVERY TO BE COMPLETED PURSUANT TO
LR-26-3(b) [CHRONOLOGICAL]

1. Deposition of Progressive's NRCP 30(b)(6) Person(s) With Knowledge initially scheduled for March 29, 2023, and postponed following Plaintiff/Counter-Defendant's objection to topics set forth in the Notice of Deposition, and other employees' depositions thereafter as may be necessary;
2. Depositions of Defendant/Counter-Claimant's treating physicians, including surgeons who reside in Colorado;
3. Deposition of Stuart Kaplan, M.D., who performed a medical records review and medical examination of Defendant/Counter-Claimant at the request of CCMSI in connection with the pending workers' compensation claim;
4. Supplemental written discovery as may be necessary.

REASONS FOR EXTENSION PURSUANT TO LR 26-3(c)

14 As the Court is aware, Defendant/Counter-Claimant underwent a spinal fusion on March
15 10, 2023. On April 14, 2023 Defendant/Counter-Claimant underwent a right shoulder arthroscopic
16 surgery with extensive debridement. Medical records have been ordered but not all records have
17 been received. In addition, following receipt of the relevant records, the depositions of his surgeons
18 may be necessary as well. Plaintiff/Counter-Defendant identified David J. Oliveri, M.D., as a
19 Rebuttal Expert Witness on March 6, 2023. Dr. Oliveri conducted a review of Defendant/Counter-
20 Claimant's medical records. The deposition of Dr. Oliveri may also be necessary.

21 The parties are currently involved in a discovery dispute regarding the production of
22 portions of the claims file that will need to be addressed by the Court and ruled on prior to the Rule
23 30(b)(6) deposition, as the contested documents are part of the topics listed in the Rule 30(b)(6)
24 notice to which Plaintiff/Counter-Defendant has objected. Plaintiff/Counter-Defendant has
25 produced its Claims Notes for this claim but redacted various Notes on the basis of attorney-client
26 and work product privilege. Defendant/Counter-Claimant contends the redacted Notes are
27 discoverable. Plaintiff/Counter-Defendant has advised that it will proceed with filing a Motion for
28 Protective Order.

1 **[PROPOSED] NEW DISCOVERY DEADLINES PURSUANT TO LR 26-3(d)**

2 EXPERT DISCLOSURE DEADLINE..... PASSED

3 REBUTTAL DISCLOSURE DEADLINE..... PASSED

4 **DISCOVERY DEADLINE** **October 2, 2023**

5 **DISPOSITIVE MOTION DEADLINE..... November 1, 2023**

6 **JOINT PROPOSED PRETRIAL ORDER..... December 1, 2023**

7 If this extension is granted, all anticipated additional discovery should be concluded within
8 the stipulated extended deadlines. This request is made in good faith and not for the purpose of
9 delay.

10 DATED this 24th day of May, 2023

11 DATED this 24th day of May, 2023

12 MOUNTAIN WEST LAWYERS

13 KEATING LAW GROUP

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18 **IT IS SO ORDERED:**

19 
20 **UNITED STATES MAGISTRATE JUDGE**

21 DATED: May 24, 2023